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**ORIGINAL**

(39)  
6-7-02  
SC

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOAN D. TESCHÉ,

Plaintiff

vs.

CNA INSURANCE COMPANIES and  
CONTINENTAL CASUALTY COMPANY,

Defendants

CIVIL ACTION

NO. 1:CV-01-0326

(William J. Caldwell, Jr.)

**FILED**  
HARRISBURG, PA  
JUN 06 2002  
MARY E. D'AMORE, CLERK  
Deputy Clerk

**JOINT MOTION TO RESCHEDULE TRIAL**

Plaintiff, Joan D. Tesche, and defendants, CNA Insurance Companies and Continental Casualty Companies, by and through their respective counsel, move to reschedule the date of trial from June 12, 2002 to August 9, 2002 and in support thereof aver as follows:

1. The within action involves a claim for long-term disability benefits under an ERISA plan and is listed for trial on Wednesday, June 12, 2002.
2. In January 2002, the parties submitted cross motions for summary judgment to the Court.
3. In a Memorandum Opinion and Order dated March 28, 2002, this Court entered partial summary judgment in favor of the defendants on plaintiff's breach of fiduciary duty claim, but denied both parties' motions for summary judgment on the determinative issue, *i.e.*, whether plaintiff was totally disabled from performing any occupation. The Court's opinion is incorporated by reference herein.

4. As noted by the Court on page 20 of its opinion, a key aspect of this case is the testimony of plaintiff's treating physician, Steven Wolf, M.D., who was not deposed (and whose schedule does not permit him to attend trial).

5. Plaintiff has scheduled the trial deposition of Dr. Wolf for Thursday, August 8, 2002 at 7:30 a.m. (the first available date on which Dr. Wolf can testify).

6. Because the parties have refined and narrowed the issues for trial and have limited the witnesses to be presented, it is expected that the bench trial will take no longer than one day.

7. If trial is conducted on June 12, 2002, as scheduled, plaintiff will be unable to present Dr. Wolf for examination and cross-examination. Moreover, if trial goes forward on June 12, 2002 and the Court permits the parties to depose Dr. Wolf at a later date for submission to the Court, the defendants will be severely prejudiced in that:

(a) they will have to put on their entire case before plaintiff closes her case; and

(b) they will not be able to offer any testimony or evidence to rebut the testimony of Dr. Wolf.

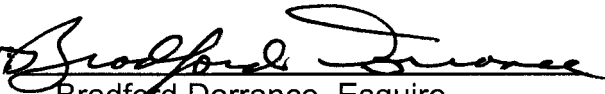
8. In order to minimize the parties' and the Court's time and resources and to prevent prejudice that would be suffered by the parties under the circumstances presented, the parties request that this Court adjourn the trial as scheduled for June 12, 2002 and reset the date for trial to Friday, August 9,

2002, or another date after August 8, 2002 that is convenient for the Court and parties.

**WHEREFORE**, for the reasons set forth above, the parties jointly request that this Court grant their motion to reschedule trial and, in granting this motion, that this Court adjourn the June 12, 2002 trial date until August 9, 2002, or another date after August 8, 2002 that is convenient for the Court and parties.

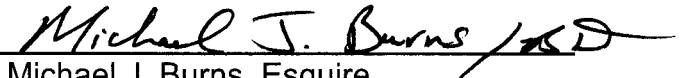
**Respectfully submitted,**

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of the foregoing document upon the person(s) and in the manner indicated below:


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(Attorneys for Defendants)

Dated:

6/6/02



Bradford Dorrance